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including the Police Department of the City of Burbank

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN;  
ELFEGO RODRIGUEZ; AND JAMAL  
CHILDS,

Plaintiffs,

-vs-

BURBANK POLICE DEPARTMENT;  
CITY OF BURBANK; TIM STEHR;  
KERRY SCHILF; JAMIE "J.J." PUGLISI;  
DAN YADON; KELLY FRANK; PAT  
LYNCH; MIKE PARRINELLO; AARON  
KENDRICK; DARIN RYBURN; AND  
DOES 1 THROUGH 100, INCLUSIVE.

Defendants.

CASE NO: BC 414602  
[Hon. Joanne O'Donnell, Dept. 37]

**DEFENDANT'S SEPARATE  
STATEMENT OF UNDISPUTED  
MATERIAL FACTS AND  
SUPPORTING EVIDENCE IN  
SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT, OR, IN  
THE ALTERNATIVE, FOR  
SUMMARY ADJUDICATION OF  
ISSUES AS TO PLAINTIFF STEVE  
KARAGIOSIAN**

[Filed Concurrently with Motion for  
Summary Judgment, Appendix of  
Evidence and Appendix of Authorities]

Date: July 20, 2010  
Time: 9:00 a.m.  
Dept: 37

Trial: Aug. 25, 2010  
Action filed: May 28, 2009

Pursuant to Code of Civil Procedure § 437c(b), Defendant **CITY OF BURBANK** including **THE POLICE DEPARTMENT OF THE CITY OF BURBANK** hereby submits this Separate Statement of Undisputed Material Facts in Support of its Motion for Summary Judgment, or Alternatively, Summary Adjudication against Plaintiff Steve Karagiosian ("Plaintiff").

**ISSUE NO. 1: PLAINTIFF'S FIRST CAUSE OF ACTION FOR DISCRIMINATION IN VIOLATION OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT ("FEHA") IS MERITLESS.**

**UNDISPUTED FACT/EVIDENCE**

**RESPONSE/EVIDENCE**

1. Plaintiff is Armenian. (Karagiosian depo. p. 38:8-9.)

2. Plaintiff considers himself a Caucasian. (Karagiosian depo. p. 177:14-16.)

3. Plaintiff was hired by the Burbank Police Department on July 20, 2004 as a lateral transfer from the Orange County Sheriff's Department. (Exh. A, FAC p. 19:23-24, ¶ 46; Karagiosian depo. p. 34:16-18.)

4. On October 1, 2004 Plaintiff received a bonus for being bilingual. (Karagiosian depo. p. 38:10-21.)

5. Plaintiff did not view the bonus as discrimination. (Karagiosian depo. p. 38:24-p. 39:1.)

6. Plaintiff recruited at least four officers to join the Burbank Police

1 Department including Emil Brimway, who is  
2 Syrian, and Gevork Mirakyan and Officer  
3 Iskanderian, who are Armenian, and others.

4 (Karagiosian depo. p. 382:8 - p. 386:9.)

5 7. Karagiosian told recruits that the  
6 Burbank Police Department was a good  
7 place to work. (Karagiosian depo. p. 386:1-  
8 9.)

9 **Crisis Negotiator**

10 8. In 2005 or 2006, Captain Pat Lynch  
11 made Karagiosian the temporary acting  
12 Armenian- speaking hostage negotiator, and  
13 told him when an official position opened he  
14 should apply for it. (Karagiosian depo. p.  
15 76:25-77:8; 797:1- p. 798:12.)

16 9. He applied for the position when an  
17 official position opened and he was  
18 appointed to be a Crisis/Hostage negotiator  
19 in January, 2007. (Karagiosian depo. p.  
20 76:25-77:8; 797:1- p. 798:12; Stehr decl. p.  
21 1:20-24, ¶ 6.)

22 10. Karagiosian did not view that as  
23 discrimination. (Karagiosian depo. p.  
24 798:15-17; p. 76:25- p. 77:8.)

25 **Work Evaluations of "Outstanding"**

26 11. In August of 2005 Karagiosian  
27 received an overall evaluation of  
28 outstanding. (Karagiosian depo. p. 512:24 -

1 p. 514:24 depo. exh. 152.)  
2 12. In January of 2006 Karagiosian  
3 received an overall evaluation of  
4 outstanding. (Karagiosian depo. p. 514:25-  
5 518:24 depo. exh. 153.)  
6 13. In April of 2006 Karagiosian  
7 received an overall evaluation of  
8 outstanding. (Karagiosian depo. p. 526: 11 -  
9 p. 527:3 depo. exh. 154.)  
10 14. In August of 2006 Karagiosian  
11 received an overall evaluation of  
12 outstanding. (Karagiosian depo. p. 527:4 -  
13 p. 529:13 depo. exh. 155.)  
14 15. In January of 2007 Karagiosian  
15 received an overall evaluation of  
16 outstanding. (Karagiosian depo. p. 529:14 -  
17 p. 530:8 depo. exh. 156.)  
18 16. In April of 2007 Karagiosian  
19 received an overall evaluation of  
20 outstanding. (Karagiosian depo. p. 530:9 -  
21 531:6 depo. exh. 157.)  
22 17. In August of 2007 Karagiosian  
23 received an overall evaluation of  
24 outstanding. (Karagiosian depo. p. 469:1-p.  
25 472:18 depo. exh. 148.)  
26 18. In February of 2008 Karagiosian  
27 received an overall evaluation of  
28 outstanding. (Karagiosian depo. p. 472:19 -

1 p. 476:9 depo. exh. 149.)

2 19. In August of 2008 Karagiosian

3 received an overall evaluation of

4 outstanding. (Karagiosian depo. p. 510:5 -

5 p. 511:14 depo. exh. 150.)

6 20. In February of 2009 Karagiosian

7 received an overall evaluation of

8 outstanding. (Karagiosian depo. p. 511:15 -

9 p. 512:23 depo. exh. 151.)

10 21. In September of 2009 Karagiosian

11 received an overall evaluation of

12 outstanding. (Karagiosian depo. p. 601:9 -

13 p. 602:15 depo. exh. 159.)

14  
15 **Officer of the Year Awards**

16 22. In May of 2007 Karagiosian was

17 selected by the Command Staff as Burbank

18 Police Officer of the Year. (Exh. A, FAC p.

19 20:15-19, ¶ 48; Karagiosian depo. p. 78:5- p.

20 79:5.)

21 23. Plaintiff did not consider being

22 named Officer of the Year to be

23 discrimination. (Karagiosian depo. p. 78:10-

24 p. 79:7.)

25 24. In November of 2007 he was named

26 Officer of the Year and given an award by

27 the Burbank Elks Lodge. (Karagiosian

28 depo. p. 79:2-5.)

1 25. Plaintiff did not consider being  
2 named Officer of the Year to be  
3 discrimination. (Karagiosian depo. p. 79:6-  
4 7.)

5 26. In November of 2008 Plaintiff was  
6 elected to the Burbank Police Officers  
7 Association Board ("BPOA"). (Karagiosian  
8 depo. p. 339:9- p. 340:8.)

9 27. He did not complain during the time  
10 he has been on the BPOA of any  
11 discrimination. (Karagiosian depo. p.  
12 340:22- p. 341:3, 547:7-8.)

13 28. In March of 2009 he was assigned to  
14 assist with the Obama Security Detail at  
15 NBC Studios. (Karagiosian depo. p. 66:1-  
16 4.)

17 **Sgt. Losacco**

18 29. Karagiosian believes Sgt. Losacco  
19 discriminated, harassed, or retaliated against  
20 him because Karagiosian was told by Officer  
21 Joe Henry that in 2007, Losacco had asked if  
22 he noticed Karagiosian doing anything  
23 wrong, and Henry concluded it was because  
24 Karagiosian is Armenian. (Karagiosian  
25 depo. p. 531:7 - p. 534:9.)

26 **Internal Affairs Investigations**

27 30. Between 2005 and 2008 Officer  
28 Karagiosian was the subject of multiple

1 internal affairs investigations. (Karagiosian  
2 depo. p. 80:12- p. 81:10.)

3 31. The results were exonerated,  
4 unfounded or not sustained – only one was  
5 sustained. (Karagiosian depo. p. 81:6-16.)

6 32. He did not view the sustaining of the  
7 findings was an act of discrimination.  
8 (Karagiosian depo. p. 81:6 to 82:10.)

9 33. He did not view any of the internal  
10 affairs investigations as discrimination.  
11 (Karagiosian depo. p. 82:11-p. 83:3.)

12 **Mofford, Schilf, McDonald, FBI Report**

13 34. Officers Mofford, Schilf, and  
14 McDonald went to the FBI in late 2008 to  
15 make a report or complaint about the  
16 department. Plaintiff did not believe it was  
17 because he is Armenian. (Karagiosian depo.  
18 416:9- p. 417:14, p. 683:23 - p. 686:22.)

19 **SED Unit**

20 35. The Special Enforcement Detail unit  
21 (“SED”) was a unit that assisted Burbank  
22 Police Department (“BPD” or  
23 “Department”) detectives.  
24 (E. Rodriguez depo. p. 26:22-28:8.)

25 36. In early 2007 Karagiosian applied  
26 and interviewed for the SED unit and ranked  
27 number two. (Karagiosian depo. p. 79:14-  
28 20.)

1 37. Plaintiff did not think being No. 2 on  
2 the SED list was discriminatory.

3 (Karagiosian depo. p. 79:21 - p. 80:11.)

4 38. On August 26, 2007 he was assigned  
5 to SED. (Exh. A, FAC p. 20:2-3, ¶ 47.)

6 39. Plaintiff did not consider being  
7 assigned to SED to be discrimination.

8 (Karagiosian depo. p. 80:3-11.)

9 40. Karagiosian was assigned to SED  
10 from August 2007 until May 2009. (Exh. A,  
11 FAC p. 20:2-3, ¶ 47, 23:26-27, ¶ 58.)

12 41. The SED assignment did not involve  
13 any additional compensation. (E. Rodriguez  
14 depo. 16:4-5; Stehr Decl. p. 1:23-24, ¶ 6.)

15 42. The SED assignment did not involve  
16 any change in rank. (Stehr decl. p. 1:25-26,  
17 ¶ 7.)

18 43. On May 4, 2009 Chief Stehr  
19 disbanded the SED Unit effective May 28,  
20 2009. (Stehr decl. p. 1:27 - p. 2:2, ¶ 8; Exh.  
21 A, FAC p. 23:26-27, ¶ 58.)

22 44. The decision to disband the SED unit  
23 was made based on the recommendation of  
24 Captain Lowers. (Stehr decl. p. 1:27 - p. 2:2,  
25 ¶ 8; Lowers decl. p. 6:12-18.)

26 45. At the time the decision to disband  
27 SED was made, the Chief of police had  
28 recently learned of allegations of a police



1 officer lying to cover up misconduct while  
2 interrogating a witness, and that the FBI was  
3 conducting its own investigation into the use  
4 of force by BPD officers. The Chief felt it  
5 was in the interest of the Department to  
6 disband SED in light of the increased  
7 scrutiny of SED because of these allegations  
8 and investigations. Additionally, due to  
9 budgetary constraints, SED was already  
10 understaffed, had two vacant positions, and  
11 had only two Officers and a Sergeant. There  
12 was also an ongoing need for officers to fill  
13 openings in the Patrol Division. (Stehr decl.  
14 p. 1:8 - p. 3: 25, ¶¶ 8-9; Exh. A, FAC p.  
15 20:7-13, ¶ 47; Lowers decl. p. 6:12-23, ¶¶ 5-  
16 6; E. Rodriguez depo. p. 28:24- p. 29:13.)  
17 46. Lowers' recommendation to disband  
18 SED was accepted by Chief Stehr, who  
19 agreed with Lowers that disbanding the unit  
20 was the best way to meet the BPD's needs.  
21 (Stehr Decl. p. 1:8 - p. 3:25, ¶¶ 8-9.)  
22 47. Captain Lowers believed, and Chief  
23 Stehr agreed, that it was more important to  
24 address the needs of the Patrol Division than  
25 to have SED providing additional assistance  
26 to the detectives, because the Patrol officers  
27 are the front-line officers who respond to  
28 calls for assistance and provide police

1 presence "on the street." (Stehr decl. p. 2:3-  
2 12, ¶ 8a.)

3 48. Plaintiff's complaint alleges that  
4 Chief Stehr created a Special Problems Unit  
5 ("SPU") to replace SED. (FAC p. 23:26-  
6 28.)

7 49. Chief Stehr intended to create an  
8 SPU but due to budgetary constraints, no  
9 SPU Unit was established. (Stehr decl. p.  
10 2:15-19, ¶ 86.)

11 **Kelly Frank**

12 50. The Police Department's Special  
13 Response Team ("SRT") test was given after  
14 Karagiosian spoke to Moisa and Bent in  
15 2008. Sgt. Kelly Frank (who was not  
16 Karagiosian's manager) did not speak  
17 directly to Karagiosian about the test and  
18 asked Steve Turner and others if Karagiosian  
19 was going to apply for the SRT; Karagiosian  
20 viewed the inquiry as discrimination.  
21 (Karagiosian depo. p. 522:23-525:25.)

22 **Patrol Assignment**

23 51. In May 2009, following disbanding  
24 of the SED unit, Karagiosian was transferred  
25 to a Patrol assignment. (Karagiosian Depo;  
26 First Amended Complaint ("FAC"), ¶ 66.)

27 52. Sergeant Travis Irving and officer  
28 Elfego Rodriguez were also transferred out

1 of SED. Rodriguez was transferred to Patrol  
2 with Karagiosian. (Karagiosian depo., 19:4-  
3 22, 31:7-10.)

4 53. Plaintiff remained in the same job  
5 classification following the disbandment of  
6 the SED, had no loss of rank or pay, and was  
7 able to participate in any special assignment  
8 selection. (Stehr decl. p. 3:26-28, ¶10. )

9 54. Plaintiff requested working Monday,  
10 Tuesday and Wednesday on patrol and an  
11 assignment to SPU (which did not exist).  
12 (Karagiosian depo. 27:8-16.)

13 55. Karagiosian was initially assigned to  
14 the Thursday, Friday, Saturday swing-shift  
15 because it was mid-deployment and senior  
16 officers get to select their preference, and  
17 prefer the Monday-Wednesday shifts;  
18 Karagiosian viewed the assignment as  
19 retaliation for sending a "brow down" video  
20 years earlier. (Karagiosian depo. p. 27:17 -  
21 p. 28:24; 32:11-23; Lynch decl. p. 9:1-11, ¶  
22 7.)

23 56. The Monday, Tuesday, and  
24 Wednesday shift assignment were full  
25 initially and Karagiosian was given that  
26 shift, which he requested, on the next  
27 deployment in August. (Karagiosian depo.  
28 p. 20:1-21:1; pp. 31:7 - 32:5.)

1 57. Karagiosian viewed his initial  
2 assignment by Capt. Lynch to working a  
3 patrol assignment on Thursday, Friday and  
4 Saturday as harassment and discrimination  
5 for being Armenian and viewed it as a  
6 direction to catch Armenian speeders on  
7 Glenoaks and smokers in the village; but  
8 Karagiosian selected and received the  
9 weekend shift for his first deployment in  
10 2010. (Karagiosian depo. p. 550:6 - p.  
11 552:81; Lynch decl. p. 9:1-11, ¶ 7.)  
12

13 **Field Training Officer**

14 58. In the summer of 2006 Karagiosian  
15 became a temporary Field Training Officer  
16 ("FTO") and received a permanent FTO  
17 position in January of 2007. (Exh. A, FAC  
18 p. 19:26-28, ¶ 46; Karagiosian depo. p.  
19 74:25 - p. 75:24.)

20 59. On October 27, 2009, after SED was  
21 disbanded, Plaintiff reapplied to be an FTO  
22 and ranked number three on the FTO exam.  
23 (Karagiosian depo. p. 83:4-14.)

24 60. Plaintiff admits that the number one  
25 candidate deserved to be number one.  
26 (Karagiosian depo. p. 83:23-24.)

27 61. Only one FTO slot was open at that  
28 time and only the number one candidate

1 received the position. (Lynch decl. p. 8:7-24,  
2 ¶ 3, 4.)

3 62. Plaintiff asserts that he should have  
4 been number two out of the ten candidates  
5 instead of number three. (Karagiosian depo.  
6 p. 83:15- p. 84:16.)

7 63. The candidates are ranked based on a  
8 compilation of scores from an oral exam,  
9 their prior evaluations, and ratings from  
10 superiors. (Lynch decl. p. 8:7-16, ¶ 3.)

11 64. Karagiosian has not been disciplined  
12 during his employment with the BPD.  
13 (Karagiosian depo. p. 173:9-15, p. 224:17-  
14 20, p. 780:6-8.)

15 65. Karagiosian has not been denied a  
16 promotion during his employment with the  
17 BPD. (Karagiosian depo. p. 777:3 - p.  
18 777:5.)

19 66. Karagiosian is currently employed by  
20 the BPD. (Lynch decl. p. 8:25-26, ¶ 5.)

21 67. On May 27, 2009 Plaintiff filed his  
22 DFEH charge alleging discrimination. (Exh.  
23 A, FAC p. 24:9-13, ¶ 59, FAC Exh. "E".)  
24

25 **ISSUE NO. 2: PLAINTIFF'S SECOND CAUSE OF ACTION FOR HARASSMENT IN**  
26 **VIOLATION OF FEHA IS MERITLESS.**

27 68. In 2004, Plaintiff complained to  
28 Sergio Bent, that the Burbank Police

1 Department unfairly targets Armenian  
2 suspects or citizens for citations or crimes.  
3 (Karagiosian depo. p. 836:4-p. 837:14.)

4 69. Plaintiff understood that several  
5 individuals received disciplinary action in  
6 the form of a comment card for targeting  
7 Armenian suspects, and for making  
8 derogatory comments about Armenians.

9 (Karagiosian depo. p. 837:19- p. 840:20.)

10 70. Plaintiff considers a comment card to  
11 be discipline. (Karagiosian depo. 838:4-22.)

12 71. Plaintiff was stopped by officers  
13 when he was new and asked if he knew of  
14 the "four Cs", which were cigarettes,  
15 cologne, car, cell phone; he did not report it  
16 to his supervisor. (Karagiosian depo. p.  
17 291:5 - p. 293:24.)

18 72. Plaintiff contends that in  
19 approximately January of 2005 an officer  
20 asked him if he was going to put his son in  
21 Sean John clothes. (Karagiosian depo. p.  
22 518:3-24, p. 520:16 - p. 522:15.)

23 **Officer Moody**

24 73. Plaintiff contends that in October of  
25 2005, Officer Moody made a comment  
26 regarding the Oktoberfest that was going to  
27 be held in Burbank to the effect "it only  
28 takes one Armenian to fuck things up."

1 (Karagiosian depo. p. 274:18- p. 275:20.)

2

3 **Kelly Frank**

4 74. Sarkis is plaintiff's middle name.

5 (Karagiosian depo. p. 209:2-15.)

6 75. Plaintiff contends that Officer Kelly

7 Frank called him Sarkis in the summer of

8 2005. (Karagiosian depo. p. 208:2- p.

9 211:13.)

10 76. That is the only time Kelly Frank

11 called him Sarkis. (Karagiosian depo. p.

12 211:12-14.)

13 77. Plaintiff complained to Omar

14 Rodriguez, who talked to Kelly Frank and

15 the behavior stopped. (Karagiosian depo. p.

16 211:4-14.)

17

18 **Don Yadon**

19 78. Plaintiff contends that Don Yadon

20 called him Sarkis in the summer of 2005.

21 (Karagiosian depo. p. 211:19-23.)

22 79. Plaintiff does not know if he

23 complained about Don Yadon calling him

24 Sarkis. (Karagiosian depo. p. 213:2-4.)

25 80. Don Yadon called him Sarkis only

26 once between August, 2007 and August,

27 2008. (Karagiosian depo. p. 211:18-20.)

28 81. The last time that Don Yadon called

1 him Sarkis was in 2008. (Karagiosian depo.  
2 p. 215:10-17.)

3 82. Plaintiff contends that in March or  
4 April of 2008 Sergeant Yadon said "This is  
5 how you cite all Armenians that the cars  
6 don't register to them" and also called  
7 Karagiosian "Sarkis" for the last time.  
8 (Karagiosian depo. p. 215:3-8, p. 268:4-22.)  
9

10 **Aaron Kendrick**

11 83. Plaintiff contends that in the spring  
12 of 2005, Officer Kendrick pointed a gun at  
13 him. When Karagiosian confronted him  
14 about it Kendrick apologized. (Karagiosian  
15 depo. p. 142:19 - p. 146:25.)

16 84. Karagiosian did not report the event  
17 to a supervisor. (Karagiosian depo. p.  
18 147:19- p. 148:18.)

19 85. Karagiosian contends that in  
20 February of 2007, at the FTO training,  
21 Officer Kendrick made some racial and  
22 derogatory comments, including calling him  
23 a towel head. (Karagiosian depo. p. 149:18 -  
24 p. 160:20.)

25 86. Karagiosian thereafter confronted  
26 Kendrick during the February of 2007 FTO  
27 training, and Kendrick apologized for the  
28 comments. (Karagiosian depo. p. 155:11 -



1 p.158:19, p. 173:16 - p. 175:9.)

2 87. After the FTO training Sgt.

3 Penaranda instructed all the FTOs that he

4 would not tolerate any racial comments.

5 (Karagiosian depo. p. 255:10 - 256:9.)

6 88. Plaintiff admits hearing no further

7 comments from Kendrick or having any

8 further problems with Kendrick since

9 February of 2007 and that he gets along fine

10 with Kendrick since 2007. (Karagiosian

11 depo. p. 173:4- p. 176:9.)

12 89. Between February 2007 and

13 sometime in 2008, plaintiff heard no racial

14 comments. (Karagiosian depo. p. 282:5-21.)

15 90. Karagiosian admits he threatened to

16 kill Kendrick in February, 2007 and was not

17 disciplined for it. (Karagiosian depo. pp.

18 158:10-19; 173:9-15.)

19 **Chief Tim Stehr**

20 91. Plaintiff believes Chief Stehr

21 harassed him by not investigating his claims

22 of discrimination. (Karagiosian depo. p.

23 567:22- p. 568:4.)

24 92. Plaintiff does not know if Chief

25 Stehr knew of his claims of discrimination;

26 because the department has a military

27 structure, complaints are made to an

28 employee's superior, not to the chief.

1 (Karagiosian depo. p. 164:18-20; 567:22- p.  
2 568:18.)

3 93. Karagiosian heard through gossip  
4 that Chief Stehr used the "N" word in a  
5 November 6, 2008 management meeting: it  
6 was reported he said "There used to be a  
7 time here when it was okay to call someone  
8 a nigger, but times have changed";  
9 Karagiosian was not at the meeting and was  
10 not present for this alleged statement.

11 (Karagiosian depo. p. 798:25 - p. 801:17;  
12 Childs depo. p. 108:3- p. 109:19; p. 158:8-  
13 21; Exh. A, FAC p. 10:19-22, ¶ 19 (e).)

14  
15 **Investigation of Anonymous Letter**

16 94. In March of 2008, an anonymous  
17 letter was received by the police chief  
18 alleging racial and ethnic remarks had been  
19 made. (Stehr decl. p. 1:10-11, ¶ 3.)

20 95. An outside attorney/investigator,  
21 Irma Rodriguez Moisa, was hired by BPD to  
22 conduct an independent investigation into  
23 the allegations contained in the anonymous  
24 letter. (E. Rodriguez depo. 238:1-8; Stehr  
25 decl. p. 1:11-13, ¶ 3.)

26 96. Moisa interviewed more than a  
27 dozen officers in Spring 2008. (E.  
28 Rodriguez depo. 345:20-346:7; Stehr decl.

1 p. 1:14-15, ¶ 4.)

2 97. Karagiosian was one of the officers  
3 interviewed by attorney Moisa, who met  
4 with Karagiosian in March of 2008 and he  
5 then met with Sgt. Bent three times  
6 concerning the investigation. His third  
7 interview in this internal affairs investigation  
8 on hostile work environment was in  
9 November, 2008. (Karagiosian depo. p.

10 180:8-21, p. 332:12- p. 333:5, p. 825:10-  
11 21; Stehr decl. p. 1:14-15, ¶ 4.)

12 98. No discipline was issued to plaintiff  
13 after he met with Moisa or Sgt Bent.  
14 (Karagiosian depo. p. 187:3-5; p. 173:9-15,  
15 p. 224:17-20, p. 780:6-8.)

16 99. Karagiosian is aware that Kendrick  
17 was disciplined after the Moisa and Sgt Bent  
18 investigation. (Karagiosian depo. p. 185:6-  
19 p. 186:1; Stehr decl. p. 1:17-18, ¶ 5.)

20 **Detectives Ross, Dahlia, Kleinfeld, Cutler,**  
21 **and Garay**

22 100. In 2004-2006 Garay and Cutler  
23 called Karagiosian Harapet, Hakop, and  
24 Karapet, and if an older Armenian was  
25 arrested, officers would say "Hey, I arrested  
26 your dad.", if a girl was arrested he would  
27 hear "I arrested your sister" or "I arrested  
28 your mom," or, "your grandma," "your  
cousin." He once came into the gym and

1 people were making fun of clothing, like  
2 socks or outfits that Armenians wear, cars  
3 that Armenians drive, the lions that  
4 Armenians have in front of their house, the  
5 marbles, the pools. He did not report these  
6 events to his supervisor. (Karagiosian depo.  
7 p. 367:21 - p. 380:21, p. 389:2-6.)

8 101. Officers, including Karagiosian,  
9 engage in pranks with each other, to show  
10 they are accepted. Jared Cutler put a used  
11 CD in Karagiosian's locker of Armenian  
12 music as a joke, which offended  
13 Karagiosian. Karagiosian complained to  
14 other officers, Cutler admitted he was the  
15 person who did it, and he stopped his  
16 behavior after Karagiosian complained.  
17 (Karagiosian depo. p. 717:1 - p. 721:17.)

18 102. Cutler resigned in 2008 before any  
19 discipline could be imposed. (Stehr decl. p.  
20 1:18-19, ¶ 5.)

21 103. In 2008 Garay once called  
22 Karagiosian "Harapet". Karagiosian told  
23 him to stop, and Garay no longer engaged in  
24 that behavior. (Karagiosian depo. p. 371:20  
25 - p. 372:17.)

26 104. Plaintiff contends from the fall of  
27 2007 until the Sergio Bent investigation in  
28 2008 that Detectives Ross, Dahlia,

1 Kleinfeld, and Garay made comments while  
2 walking down the hall including "100  
3 percent my friend," with an accent and  
4 continuously said "My friend. Oh, Vontez.  
5 How you doing, my friend? You come after  
6 me like speeding bullet for seat belt ticket."  
7 (Karagiosian depo. p. 226:1- p. 230:24.)

8 105. Karagiosian reported these events  
9 and the Kendrick gun incident from two  
10 years earlier to Sgt. Gunn who reported it to  
11 the Chief and the matter was then part of the  
12 2008 investigation by Sergio Bent.  
13 (Karagiosian depo. p. 225:19- p. 230:24.)

14  
15 **Other Comments**

16 106. Plaintiff complained to Chief Stehr  
17 in late February, 2009 about previously  
18 hearing Armenians referred to as "NHI" or  
19 "no humans involved," a conversation about  
20 "white people," and a conversation that  
21 occurred at 612 Cypress. (Karagiosian depo.  
22 p. 573:23 - p. 584:11.)

23 107. Plaintiff has not heard these racial  
24 comments since he went back to Patrol in  
25 May, 2009. (Karagiosian depo. p. 286:22-  
26 24.)

27 **White Dry Erase Board**

28 108. Plaintiff complained in March of

1 2009 about a dry erase board containing  
2 comments mocking Armenians, but he could  
3 not remember exactly what they were, only  
4 that the board said "percent... 95%" and that  
5 it went on for five sentences. (Karagiosian  
6 depo. p. 91:16 - p. 92:13.)

7 109. The comments were erased the same  
8 day. (Karagiosian depo. p. 96:18-20.)

9 110. He understood from speaking with  
10 Omar Rodriguez that the detectives who  
11 were responsible for the comments were  
12 "hard-carded" or disciplined. (Karagiosian  
13 depo. p. 100:2-23.)

14 111. Karagiosian had no problems with  
15 Aaron Kendrick after SED was disbanded in  
16 May, 2009. (Karagiosian depo. p. 25:18-  
17 23.)

18 112. Karagiosian had no problems with  
19 Brian Gordon after SED was disbanded.  
20 (Karagiosian depo. p. 26:4-6.)

21 **Armenian comments during meeting**

22 113. Plaintiff contends that he recently  
23 complained that on March 9 and 10, 2010,  
24 he attended a training class on how to search  
25 records and data bases, in which people  
26 working for the LA County Sheriff, not  
27 Burbank Police Department employees,  
28 made comments asserting Armenian names

1 were hard to pronounce and spell, and  
2 referenced a joke about Armenians.  
3 (Karagiosian depo. p. 692:18 - p. 697:4, p.  
4 753:14 - p. 761:22; Dermenjian decl. p.  
5 10:7-15, ¶ 3.)  
6 114. Lt. Dermenjian of the BPD  
7 immediately spoke to the LA Sheriff  
8 instructors about the reference to an  
9 Armenian joke and told them they were not  
10 to make ethnic comments or jokes, and no  
11 further similar events were reported.  
12 (Dermenjian decl. p. 10:7-15, ¶ 3.)  
13

14 **ISSUE NO. 3: PLAINTIFF'S THIRD CAUSE OF ACTION FOR RETALIATION IN**  
15 **VIOLATION OF FEHA IS MERITLESS.**

16 115. During BPD's investigation of  
17 claims of discrimination, Karagiosian was  
18 one of the officers interviewed by attorney  
19 Moisa, who met with Karagiosian in March,  
20 2008. (Karagiosian depo. p. 180:8-10; Stehr  
21 decl. p. 1:14-15, ¶ 4.)

22 116. No discipline was issued to plaintiff  
23 after he met with Moisa or Sgt Bent and he  
24 continued receiving outstanding evaluations.  
25 (Karagiosian depo. p. 187:3-5; p. 173:9-15,  
26 p. 224:17-20, p. 780:6-8.)

27 117. In August of 2008 he received an  
28 overall evaluation of outstanding.

1 (Karagiosian depo. p. 510:5 - p. 511:14,  
2 depo. exh. 150.)  
3 118. In February of 2009 he received an  
4 overall evaluation of outstanding.  
5 (Karagiosian depo. p. 511:15 - p. 512:23,  
6 depo. exh. 151.)  
7 119. On May 27, 2009 Plaintiff filed his  
8 DFEH charge alleging retaliation. (Exh. A,  
9 FAC p. 24:9-13, ¶ 59, FAC Exh. "E".)  
10 120. No discipline was issued to plaintiff  
11 after he filed his DFEH charge, and he  
12 continued receiving outstanding evaluations,  
13 including one in September of 2009.  
14 (Karagiosian depo. p. 601:9 - p. 602:15,  
15 depo. exh. 159; p. 187:3-5; p. 173:9-15, p.  
16 224:17-20, p. 780:6-8.)  
17 **Mike Parrinello**  
18 121. Karagiosian viewed defendant Mike  
19 Parrinello as retaliating against him because  
20 Parrinello showed up to several depositions  
21 in this lawsuit, including Karagiosian's.  
22 Karagiosian is aware that he named  
23 Parrinello individually as a defendant in this  
24 lawsuit (entitling Parrinello to be at  
25 depositions), but believes it is a conflict of  
26 interest for Parrinello to "represent the City"  
27 in a deposition and to represent police  
28 officers at the same time because Parrinello



1 is the president of the BPOA --the Burbank  
2 Police Officers Association. (Karagiosian  
3 depo. p. 547:3-p. 548:20.)  
4 122. Karagiosian also viewed defendant  
5 Mike Parrinello as retaliating against him  
6 because Karagiosian told Parrinello about  
7 offensive conduct, Parrinello told  
8 Karagiosian he was sorry he had to  
9 experience it, and Parrinello told the chief  
10 what Karagiosian told him and Karagiosian  
11 was called in to talk to Sgt. Misquez about  
12 the offensive conduct. (Karagiosian depo. p.  
13 341:20- p. 348:18.)

14 **JJ Puglisi**

15 123. Karagiosian asserts retaliation based  
16 on Lieutenant Puglisi sending an email to  
17 Pat Lynch. The "Subject," had  
18 Karagiosian's name and the content of the  
19 email stated, "The citation that Officer  
20 Karagiosian wrote, his citation book was  
21 over two years old," and stated he wanted  
22 Karagiosian to write a memo to dismiss the  
23 citation. This occurred after Karagiosian  
24 filed suit, and about eight months after he  
25 returned to patrol. (Karagiosian depo.  
26 554:16-p. 556:4, p. 565:4-13, 566:2-11; p.  
27 752:20- p. 753:1; p. 518:3-24, p. 520:16 - p.  
28 522:15.)

1 124. Karagiosian admitted his citation  
2 book was two years old, he did not know a  
3 new book had issued, and the citations had  
4 changed; this was the first citation he issued  
5 after returning to patrol. (Karagiosian depo.  
6 p. 556:17 - p. 557:19.)

7 **Pat Lynch**

8 125. Plaintiff viewed as retaliatory that  
9 Captain Lynch sent the above email to a  
10 patrol sergeant about a parking citation  
11 Karagiosian issued on a citation book that  
12 was over two years old, and asked him to  
13 dismiss the citation. (Karagiosian depo. p.  
14 554:12 - p. 557:22.)

15 **Dan Yadon**

16 126. Karagiosian viewed as retaliation a  
17 single statement from Don Yadon that  
18 Karagiosian, but not others, could not call  
19 officer Cozakos "the Greek". (Karagiosian  
20 depo. p. 558:8- -p. 565:4.)

21 127. Yadon later apologized for the  
22 incident, shortly after Gunn's death (October  
23 29, 2009), and promised he would not  
24 "nitpick" any more. (Karagiosian depo. p.  
25 560:5-24.)

26 **Chief Stehr**

27 128. An assignment to SED did not  
28 involve any additional compensation or any

1 change in rank. (E. Rodriguez depo. 16:4-5;  
2 Stehr Decl. p. 1:23-24, ¶ 6; p. 1:25-26, ¶ 7.)  
3 129. On May 4, 2009 Chief Stehr  
4 disbanded the SED Unit effective May 28,  
5 2009. (Stehr decl. p. 1:27 - p. 2:2, ¶ 8; Exh.  
6 A, FAC p. 23:26-27, ¶ 58.)  
7 130. The decision to disband the SED unit  
8 was made based on the recommendation of  
9 Captain Lowers. (Stehr decl. p. 1:27 - p. 2:2,  
10 ¶ 8; Lowers decl. p. 6:12-18.)  
11 131. At the time the decision to disband  
12 SED was made, the Chief of police had  
13 recently learned of allegations of a police  
14 officer lying to cover up misconduct while  
15 interrogating a witness, and that the FBI was  
16 conducting its own investigation into the use  
17 of force by BPD officers. The Chief felt it  
18 was in the interest of the Department to  
19 disband SED in light of the increased  
20 scrutiny of SED because of these allegations  
21 and investigations. Additionally, due to  
22 budgetary constraints, SED was already  
23 understaffed, had two vacant positions, and  
24 had only two Officers and a Sergeant. There  
25 was also an ongoing need for officers to fill  
26 openings in the Patrol Division. (Stehr decl.  
27 p. 1:8 - p. 3: 25, ¶¶ 8-9; Exh. A, FAC p.  
28 20:7-13, ¶ 47; Lowers decl. p. 6:12-23, ¶¶ 5-

1 6; E. Rodriguez depo. p. 28:24- p. 29:13.)

2 132. Lowers' recommendation to disband

3 SED was accepted by Chief Stehr, who

4 agreed with Lowers that disbanding the unit

5 was the best way to meet the BPD's needs.

6 (Stehr Decl. p. 1:8 - p. 3:25, ¶¶ 8-9.)

7 133. Captain Lowers believed, and Chief

8 Stehr agreed, that it was more important to

9 address the needs of the Patrol Division than

10 to have SED providing additional assistance

11 to the detectives, because the Patrol officers

12 are the front-line officers who respond to

13 calls for assistance and provide police

14 presence "on the street." (Stehr decl. p. 2:3-

15 12, ¶ 8a.)

16 134. Chief Stehr intended to create an

17 SPU but due to budgetary constraints, no

18 SPU Unit was established. (Stehr decl. p.

19 2:15-19, ¶ 86.)

20 135. Plaintiff believes Chief Stehr

21 retaliated against him for complaining about

22 discrimination by disbanding the SED unit.

23 (Karagiosian depo. p. 592:22- p. 593:4.)

24 136. Plaintiff told Sgt. Bent he thought

25 Chief Stehr was a "great guy" and was

26 "getting fucked by a guy he trusted", Aaron

27 Kendrick. (Karagiosian depo. p. 348:15-23.)

28 **Carol Humiston**

1 137. Plaintiff believes that Burbank City  
2 Attorney, Carol Humiston, retaliated against  
3 him in July or August of 2009 by  
4 investigating a report that Karagiosian had  
5 refused to translate some tapes that were in  
6 Armenian, because she did not talk to  
7 Karagiosian; Karagiosian received no  
8 discipline or adverse employment action.  
9 (Karagiosian depo. p. 354:22 - p. 359:11; p.  
10 596:2- p. 598:17.)

11 138. Plaintiff also believes Humiston  
12 retaliated against him in January, 2010,  
13 because D.A. Rusty Moore who was  
14 handling a murder trial told Karagiosian that  
15 Humiston had called and asked if  
16 Karagiosian engaged in wrongdoing and  
17 mentioned a "white people" comment.  
18 (Karagiosian depo. p. 598:20 - p. 600:13.)

19 139. Karagiosian's evaluations after filing  
20 suit remained "outstanding." (Karagiosian  
21 depo. p. 510:5 - p. 511:14 depo. exh. 150; p.  
22 511:15 - p. 512:23 depo. exh. 151; p. 601:9 -  
23 p. 602:15 depo. exh. 159.)  
24

25 **ISSUE NO. 4: PLAINTIFF'S FIFTH CAUSE OF ACTION FOR FAILURE TO**  
26 **PREVENT DISCRIMINATION, HARASSMENT AND RETALIATION IN VIOLATION**  
**OF FEHA IS MERITLESS.**

27 140. Defendant City of Burbank  
28 incorporates by reference Undisputed Facts

1 Nos. 1-139, showing Karagiosian

2 established no discrimination, harassment,  
3 or retaliation.

4 141. The Burbank Police Department has  
5 a policy against harassment and  
6 discrimination in the workplace. (Stehr  
7 decl. p. 4:3-7, ¶ 11, exh. 200.)

8 142. In 2005, the City of Burbank  
9 reissued its Prevention against  
10 Discrimination and Harassment Policy.

11 (Stehr decl. p. 4:3-7, ¶ 11, exh. 200.)

12 143. In 2005, the City of Burbank gave  
13 training to its employees to prevent  
14 harassment. (Stehr decl. p. 4:8-9, ¶ 12.)

15 144. In 2006, the City of Burbank gave  
16 training to its employees to prevent  
17 harassment. (Stehr decl. p. 4:9-11, ¶ 13.)

18 145. In 2007, the City of Burbank gave  
19 training to its employees to prevent  
20 harassment. The issue was documented at

21 roll call. (Stehr decl. p. 4:11-13, ¶ 14.)

22 146. After the FTO training Sgt.  
23 Penaranda instructed all the FTOs that he  
24 would not tolerate any racial comments.  
25 (Karagiosian depo. p. 255:10 - 256:9.)

26 147. In 2008, the City of Burbank gave  
27 training to its employees to prevent  
28 harassment. (Stehr decl. p. 4:13-15, ¶ 15.)

1 148. On March 11, 2008 the City reissued  
2 its Zero Tolerance Bulletin. (Stehr decl. p.  
3 4:15-20, ¶ 16.)

4 149. On March 12, 2008 the Zero  
5 Tolerance Bulletin was read at roll call  
6 which Plaintiff attended. (Stehr decl. p.  
7 4:20-22, ¶ 17.)

8 150. An outside attorney/investigator,  
9 Irma Rodriguez Moisa, was hired by BPD in  
10 2008 and together with Sgt. Bent, conducted  
11 an independent investigation into allegations  
12 in the anonymous letter about racial  
13 comments. (Stehr decl. p. 1:10-16, ¶ 3-4; E.  
14 Rodriguez depo. pp. 345:20-346:7 p. 238:1-  
15 8; Karagiosian depo. p. 180:8-21, p. 332:12-  
16 p. 333:5, p. 825:10-21.)

17 151. Karagiosian met with Moisa, and  
18 also met with Sgt. Bent three times  
19 concerning the investigation into the  
20 anonymous letter. His third interview in this  
21 internal affairs investigation on hostile work  
22 environment was in November, 2008.

23 (Karagiosian depo. p. 180:14-21, p. 825:10-  
24 21; Stehr decl. p. 1:14-16, ¶ 4.)

25 152. On September 1, 2008 the City  
26 reissued its policy against discrimination and  
27 harassment policy. (Stehr decl. p. 4:24-27 ¶  
28 19.)

1 153. In November 2008, Chief Stehr  
2 ordered mandatory four hour diversity  
3 training program and mandated that officers  
4 visit the Museum of Tolerance. (Stehr decl.,  
5 p. 4:27 - p. 5:5, ¶¶ 20-22.)

6 154. In 2009, the City of Burbank gave  
7 training to its employees to prevent  
8 harassment. (Stehr decl., p. 5:8-10, ¶ 24.)

9 155. On January 15, 2009, the City of  
10 Burbank's Prevention of Discrimination and  
11 Harassment Policy was read at roll call.  
12 (Stehr decl., p. 5:6-7, ¶ 23.)

13 156. In March of 2009 the BPD conducted  
14 mandatory discrimination diversity training.  
15 (Stehr decl. p. 5:8-10, ¶ 24.)

16 157. On May 10, 2009, Chief Stehr issued  
17 a written memorandum to all police  
18 personnel regarding employee  
19 communications about an internal  
20 administrative investigation. The memo  
21 assured that there would be no retaliation for  
22 reports of misconduct during official  
23 proceedings or as authorized by law, and  
24 prohibiting informal discussions and gossip  
25 about pending internal investigations.

26 (Childs depo. p. 171:20-p. 173:24, exh. 117;  
27 Stehr decl. p. 5:11-13, ¶ 25.)

28 158. On or about June 4, 2009, Chief



1 Stehr issued a written memorandum to all  
2 police personnel on "Maintaining a  
3 Professional Work Environment. (Stehr  
4 decl. p. 5:14-16, ¶ 26, exhibit 201.)  
5 159. In June and July of 2009, the City of  
6 Burbank conducted Museum of Tolerance  
7 training. (Stehr decl., p. 5:17-18, ¶ 27;  
8 Childs depo. p. 131:2-4.)  
9

10 **AFFIRMATIVE DEFENSE**  
11 **ISSUE NO. 5: PLAINTIFF'S FEHA CLAIMS ARE BARRED BY THE STATUTE OF**  
12 **LIMITATIONS.**

13 160. FEHA claims have a one year statute of  
14 limitations for filing the prerequisite DFEH  
15 complaint. (Gov. Code, §§ 12960(d).)

16 161. Karagiosian filed a DFEH complaint on May  
17 27, 2009, which limits his FEHA claims to events  
18 occurring on or after May 27, 2008. (Exh. A, FAC  
19 p. 24:9-13, ¶ 59, FAC Exh. "E".)  
20

21 162. Defendant City of Burbank incorporates by  
22 reference Undisputed Facts Nos. 1-162, showing  
23 Karagiosian identified no offensive conduct  
24 establishing a hostile work environment, or adverse  
25 employment action showing discrimination, or  
26 retaliation in violation of FEHA by BPD occurring  
27 on or after May 27, 2008.  
28

**ISSUE NO. 6: PLAINTIFF'S SIXTH CAUSE OF ACTION FOR VIOLATION OF THE PUBLIC SAFETY OFFICERS PROCEDURAL BILL OF RIGHTS ("POBRA"), IS MERITLESS.**

163. Defendant City of Burbank incorporates by reference Undisputed Facts Nos. 1-139, showing Karagiosian established no discrimination, harassment, or retaliation, and that Burbank has not attempted to discipline or demote Karagiosian, place him on administrative leave, remove him from a position of authority, give him a demeaning job, or terminate his employment.

164. The Plaintiffs' POBRA cause of action alleges they were retaliated against for filing complaints and grievances for harassment, discrimination, retaliation, and failure to discipline offending officers. (Exh. A, Complaint, p. 42:24- p. 46:21, specifically, p. 43:4- p. 44:2, ¶ 124.)

165. The only act Karagiosian viewed as improper was being removed from SED when it was disbanded and being assigned back to Patrol with the other officer who was in SED. (Karagiosian depo. p. 779:6-18 - 785:11.)

**AFFIRMATIVE DEFENSE**

**ISSUE NO. 7: PLAINTIFF'S POBRA CLAIM IS BARRED BY THE GOVERNMENT TORT CLAIM LIMITATIONS PERIOD.**

166. No action for money damages may be brought against a public entity unless a written claim has been timely presented to the entity and acted upon, or relief is granted from the claims

1 requirements. (Gov. Code, §§ 905, 911.2, 945.4,  
2 946.6, 954.5.)

3 167. A government claim asserting a POBRA  
4 violation must be filed within six months of the  
5 wrongful action/injury. (Gov. Code, § 911.2;  
6 *Lozada v. City and County of San Francisco* (2006)  
7 145 Cal.App.4th 1139, 1153 [Government Claims  
8 Act requirements apply to POBRA claims]; *Voth v.*  
9 *Wasco Public Utility Dist.* (1976) 56 Cal.App.3d  
10 353, 356 [the six month limitations period applies to  
11 all actions sounding in tort].)

12 168. On May 27, 2009, Karagiosian filed a  
13 Government Claim. (Exh. A, FAC p. 24:13-17, ¶  
14 59, FAC exh. F.)

15 169. Karagiosian's government claim does not  
16 identify POBRA as a complained of wrong. (Exh.  
17 A, FAC p. 24:13-17, ¶ 59, FAC exh. F.)

18 170. On July 10, 2009, the City of Burbank denied  
19 Karagiosian's Government Claim, returning it. (Exh.  
20 A, FAC p. 24:13-17, ¶ 59, FAC exh. F.)

21 171. Because Karagiosian filed his government  
22 claim on May 27, 2009, the six month limitations  
23 period restricts his POBRA claim to events occurring  
24 from November 27, 2008 to May 27, 2009. (Gov.  
25 Code, § 911.2)

26 172. Plaintiff alleges no POBRA violation during  
27 this period. (FAC.)

28

1 173.. Karagiosian has not alleged that he filed an  
2 application to present a late claim. (FAC.)

3  
4 **ISSUE NO. 8: PLAINTIFF'S SEVENTH CAUSE OF ACTION FOR INJUNCTIVE**  
5 **RELIEF IS MERITLESS AND STATES NO CAUSE OF ACTION.**

6 174. Defendant City of Burbank incorporates by  
7 reference Undisputed Facts Nos. 1-173, showing  
8 plaintiff has no basis for any cause of action or  
9 seeking injunctive relief.

10 DATED: 5/6/10

BALLARD ROSENBERG GOLPER &  
SAVITT, LLP

12 By:   
CHRISTINE T. HOEFNER

13 Attorneys for Defendant  
14 CITY OF BURBANK, including the Police  
15 Department of the City of Burbank